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| Appl. No.: | 10/627,166 | Confirmation No.: | 2507 |
| Applicant(s): | Charles E. Price | Filed: | July 25, 2003 |
| Art Unit: | 1755 | Examiner: | Paul D. Marcantoni |
| Title: | CEMENTITIOUS COMPOSITIONS AND METHODS OF MAKING AND USING | | |

Docket No.: 946478-263692

Customer No.: 24239

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

**REQUEST FOR RECONSIDERATION OF
NOTIFICATION OF NON-COMPLIANT APPEAL BRIEF**

Applicant in the above-identified patent application hereby requests reconsideration of the Notification of Non-Compliant Appeal Brief dated September 22, 2009 ("Notification"), on the basis that the appeal brief is fully compliant with the Rules of Practice Before the Board of Patent Appeals and Interferences in Ex Parte Appeals.

In the Notification dated September 22, 2009, the Examiner asserted that the appeal brief filed June 24, 2009, is defective because of improper headings. Applicant submits that the appeal brief complies "exactly" with the new format for appeal briefs set forth in the new proposed Rules of Practice Before the Board of Patent Appeals and Interferences in Ex Parte Appeals. As provided in the pertinent notices in the Federal Register, *See Clarification of the Effective Date Provision in the Final Rule for Ex Parte Appeals*, 73 FR 70282, and *Rules of Practice Before the Board of Patent Appeals and Interferences in Ex Parte Appeals; Delay of Effective and Applicability Dates*, 73 FR 70238 (December 10, 2008), "the Office will not hold an appeal brief as non-compliant solely for following the new format even though it is filed before the effective date." Thus, the Notification issued by the Examiner is in error, as the headings in the appeal brief are the precise headings set forth in revised 37 CFR 41.37. Applicant respectfully requests that the Examiner withdraw the Notification and the holding that the appeal brief is non-compliant.

Respectfully submitted,

/hbw/

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Filing Date: July 25, 2003
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